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SUBJECT: GOB STOPS ENFORCING COURT RULINGS ON LAND DISPUTES

1.(SBU) Summary. In an attempt to cool tensions over land disputes in urban areas, the GOB imposed, on October 12, a moratorium on the enforcement of court rulings on land disputes. Often resolution of land disputes in Benin involves judicial corruption and dubious documentation of land claims. A source close to President Yayi explained this decision fits within the GOB's policy to crack down on corruption in the judiciary. Members of the judiciary protested what they saw as a breach of the separation of powers guaranteed in Benin's constitution. End Summary.

2.(U) In imposing the moratorium, the GOB explained that enforcement of these rulings, which often drive people off land they have held for many years, represents a real threat to public order and the country's economy. The cost of these rulings, in human terms, can be harsh. One of Post's LES tells of his aunt who was evicted from her home of twenty years. In the late 80's she bought a piece of land from a person she thought was the rightful owner and built her house. This year she was evicted from her property after another person claimed her land and used a court order to evict her after she could not pay the equivalent of US\$17,800, an amount worth 34 times Benin's per capita income, to keep her house. After a lifetime of work she has returned to her home village. To resolve land disputes such as this one, the GOB intends during the moratorium to organize meetings between representatives of the executive, the National Assembly, and the judiciary to study the possibility of putting in place a fairer settlement mechanism for property disputes.

3.(SBU) In addition to the GOB's public explanation of acting to keep the peace, President Yayi's Legal Advisor told PolOff that the GOB was also acting to impose a moratorium because of corruption within the ranks of the judiciary. Judges are known to accept bribes when deciding on land disputes and the Yayi government wants to act to end this practice.

4.(U) Benin's National Association of Magistrates protested against this decision and noted the GOB's decision was detrimental to the role courts play in dealing with land disputes and threatened property rights. Other lawyers have accused the GOB of violating the constitution. Note: This is not a universal view, as GOB lawyers argue that under the constitution the GOB has the right to not enforce rulings if enforcing a ruling would impugne on its ability to protect public security. End Note.

5.(SBU) Comment. This action fits within President Yayi's well-publicized attempts to fight corruption and protect individuals from illegally losing their land. However, the development of a commission to untangle property disputes may not only represent an unwieldy parallel dispute resolution system to the courts, but undermine the legitimacy of the court system on the whole. The

Millennium Challenge Corporation (MCC) Access to Land program, currently underway, will help untangle land ownership issues in 300 communes and identify a new national land policy. But continued disputes over land ownership will be a reality and a strong justice system will need to be able to address them. Creating a parallel system to resolve property disputes, a process which has not yet begun, cannot take the place of the strong justice system necessary to protect all the rights of Benin's citizens. End Comment.

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